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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/587,124

07/24/2006

Manfred Weber

29827/42210

3095

4743

7590

06/11/2009

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EXAMINER

SALVATORE, LYNDIA

ART UNIT

PAPER NUMBER

1794

MAIL DATE

DELIVERY MODE

06/11/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/587,124	<b>Applicant(s)</b> WEBER ET AL.	
	<b>Examiner</b> LYNDA M. SALVATORE	<b>Art Unit</b> 1794	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 13 March 2009.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-5, 7-16 and 19-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5, 7-10, 12-14, 19 and 20 is/are rejected.
- 7) ☒ Claim(s) 11, 15, 16 and 21 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Amendment***

1. Applicant's amendment and accompanying remarks filed 3/13/09 have been fully considered and entered. Claims 1 and 21 have been amended and claims 6 and 17-18 have been canceled. Applicant's amendment to claim 1 is found sufficient to overcome the anticipation rejections set forth in the Office Action dated 12/30/08. Specifically, the prior art of Anderson et al., does not teach that the emulsion comprises an organic solvent. As such, these rejections are hereby withdrawn. However, upon further consideration the following new ground of rejection is set forth herein below.

### ***Allowable Subject Matter***

2. The indicated allowability of claims 9, 19 and 20 are withdrawn in view of the newly discovered reference(s). Rejections based on the newly cited reference(s) follow.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-5, 7-10, 12, 13,14, 19 and 20 rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson et al., US 6,686,414 in view of Sackmann et al., US 5,635,569.

The patent issued to Anderson et al., teach a polymer composition comprising 50% carboxylic acid and a cross-linking agent (abstract). Said composition is

Art Unit: 1794

neutralized with a base material (column 3, 63-column 4, 15). Anderson et al., teach coating the composition on a fibrous substrate and then curing in an oven at 130 degree C (column 5, 47-55 and column 6, 1-35, column 7, 15-30, column 9-15). Said composition is taught as superabsorbent (title). Suitable fibrous substrates include non-wovens made with natural and synthetic fibers (column 6, 23-55). Suitable carboxylic monomers include methacrylic acid (column 3, 39-45).

Sackmann et al., does not teach adding organic solvent, however, the patent issued to Sackmann et al., teach a superabsorbent polymer emulsion comprising an organic solvent (abstract and column 3, 32-45). With regard to claim 9, Sackmann et al., teach forming superabsorbent fine particles from the emulsion by the addition of an organic solvent (column 3, 32-45).

With regard to claims 19 and 20, it is the position of the Examiner that superabsorbent polymer provided by the combination of the Anderson et al., in view of Sackmann et al., could function in the desired capacity as a sealing material. Support for said presumption is based on the fact that the combination of prior art teach the claimed chemical and structural limitations. Applicant is invited to prove otherwise.

Therefore, motivated by the desire to form superabsorbent fine particles it would have been obvious to one having ordinary skill in the art at the time the invention was made to formulate the polymer composition of Anderson et al., with an organic solvent as taught by Sackmann et al.

***Allowable Subject Matter***

5. Claims 11, 15, 16 and 21 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to LYNDA M. SALVATORE whose telephone number is (571)272-1482. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hendricks Keith can be reached on 571-272-1401. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

June 6<sup>th</sup>, 2009  
Art Unit 1794

/Lynda Salvatore/  
Primary Examiner

Application/Control Number: 10/587,124  
Art Unit: 1794

Page 5